

BEFORE THE FEDERAL ELECTION COMMISSION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

In the Matter of )

Oakland Democratic Campaign Committee )  
and David Woodward, as Treasurer )  
Troy Democratic Club and Timothy Dewan, )  
as Treasurer )

MUR 5236

**SENSITIVE**

GENERAL COUNSEL'S REPORT #2

**I. ACTIONS RECOMMENDED**

close the file and take no further action

as to Troy Democratic Club ("Respondent Troy").

**II. BACKGROUND**

On October 10, 2001, the Commission found reason to believe that Respondent

Oakland:

1

2

3

4

5

accepted prohibited contributions in violation of

6

2 U.S.C. § 441b(a). The Commission also found reason to believe that Respondent Troy

7

violated 2 U.S.C. §441b(a) by making contributions originating from a prohibited source.

8

The Commission authorized an investigation in this matter.

9

10

11

12

13

In order to conduct this investigation, subpoenas were issued to

14

Respondent Oakland, First of America Bank<sup>1</sup> and Respondent Troy. The subpoenas

15

sought the production of documents, including bank statements, canceled checks, deposit

16

slips and other items related to bank account activity.

17

18

19

20

---

<sup>1</sup> First of America Bank is the financial institution at which Respondent Oakland's Operating Fund was located.

22-04-10-22

1     **III.   DISCUSSION**

2             **A.   Prohibited Contributions**

3

4

5

6

7

8

9

10

11

12             The purpose of the subpoena issued to Respondent Troy in this investigation was  
13     to obtain copies of the canceled checks representing the \$18,800 contribution and other  
14     documentation evidencing the source of the funds that were used to make the  
15     contributions to Respondent Oakland. In response to the subpoena, Respondent Troy  
16     submitted check copies (front and back) representing the \$18,800 contributions, copies of  
17     checks received from Respondent Oakland and related correspondence pertaining to the

EE-004-406-0336

1 refund of \$5,500 from Respondent Oakland.<sup>4</sup> Attachments 4 and 7. Respondent Troy  
2 also produced documents that it filed with the State of Michigan to show that the funds  
3 used to make the contribution originated from impermissible sources. Attachments 2  
4 and 8.

5 In its response to the reason to believe findings, Respondent Troy argues that the  
6 \$18,800 contributions were intended for deposit into Respondent Oakland's state account  
7 because the funds originated from impermissible sources, thereby making them  
8 unacceptable for deposit into a federal account. Attachment 2. Respondent Troy  
9 submitted sworn and notarized statements from its chairman, Jerry Bixby, and its  
10 treasurer, Timothy Dewan, attesting that it was their intention that the contribution<sup>5</sup> was  
11 to be deposited into Respondent Oakland's state account since the funds originated from  
12 impermissible sources. Attachment 5.

<sup>4</sup> Respondent Oakland's refunds of the \$5,500 were untimely, occurring between 662 and 693 days after the contributions were received by Respondent Troy.

<sup>5</sup> Both of these individuals were signatories on the contribution checks in question.

EE-04-406-0337

1           The Office of General Counsel believes that the file should be closed as to  
2   Respondent Troy and the Commission should take no further action. This belief is based  
3   on the fact that the sworn statements and the information contained in the responses to the  
4   reason to believe findings is consistent with Respondent Troy's position that it never  
5   intended for its contributions to be deposited into Respondent Oakland's federal account.  
6   In addition, Respondent Troy relinquished control of its contribution when it was  
7   delivered to the political committee or its agent and it did not have any control over  
8   where its contribution was ultimately deposited by Respondent Oakland. See 11 C.F.R.  
9   § 110.2(b)(6). As such, Respondent Troy should not be held responsible for the actions  
10   of Respondent Oakland. Therefore, the Office of the General Counsel recommends that  
11   the Commission close the file as to Troy Democratic Club and Timothy Dewan, as  
12   Treasurer and take no further action.

13

14

15

16

17

18

19

20

21

22-04-406-0553

PAGES 6 THRU 10 DELETED

EE-004-406-0555

V. RECOMMENDATIONS

Close the file and take no further action as to Troy Democratic Club

Approve the appropriate letters.

Lawrence H. Norton  
General Counsel

6/14/02  
Date

BY: [Signature]  
Gregory R. Baker  
Acting Associate General Counsel

[Signature]  
Lorenzo Holloway  
Assistant General Counsel

[Signature]  
Kimberly D. Hart  
Attorney

**Attachments**

2. Troy Democratic Club's response to Commission's Reason to Believe Findings dated November 13, 2001
4. Copies of canceled checks (front and back) representing \$18,800 in contributions received from Troy Democratic Club by Oakland Democratic Campaign Committee received pursuant to subpoena issued to Troy Democratic Club
5. Sworn and notarized statements submitted by Jerry Bixby, Chair of the Troy Democratic Club, and Timothy Dewan, Treasurer of the Troy Democratic Club
7. Correspondence and canceled checks from the Oakland Democratic Campaign Committee to the Commission regarding the refund of the \$5,500 in contributions to Troy Democratic Club dated May 14, 2001 obtained pursuant to subpoena issued to Oakland Democratic Campaign Committee
8. Copies of documentation evidencing the source of the funds used by Troy Democratic Club to make the \$18,800 contributions to Oakland Democratic Campaign Committee

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

22-04-405-0341





# FEDERAL ELECTION COMMISSION

Washington, DC 20463

## MEMORANDUM

**TO:** Office of the Commission Secretary

**FROM:** Office of General Counsel

**DATE:** June 14, 2002

**SUBJECT:** MUR 5236 – General Counsel's Report #2

The attached is submitted as an Agenda document  
for the Commission Meeting of \_\_\_\_\_

Open Session \_\_\_\_\_

Closed Session \_\_\_\_\_

### CIRCULATIONS

**SENSITIVE** ☒  
**NON-SENSITIVE** ☐

72 Hour TALLY VOTE ☒

24 Hour TALLY VOTE ☐

24 Hour NO OBJECTION ☐

INFORMATION ☐

96 Hour TALLY VOTE ☐

### DISTRIBUTION

**COMPLIANCE** ☒

Open/Closed Letters ☐  
MUR ☐  
DSP ☐

**STATUS SHEETS** ☐  
Enforcement ☐  
Litigation ☐  
PFESP ☐

**RATING SHEETS** ☐

**AUDIT MATTERS** ☐

**LITIGATION** ☐

**ADVISORY OPINIONS** ☐

**REGULATIONS** ☐

**OTHER** ☐

22.04.406.0342